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SUBJECT: LAW AND REALITY CLASH IN CAMBODIA'S FORESTS

REF: PHNOM PENH 1189 (DAMMING THE MEKONG:
HYDROPOWER'S HIGH PRICE)

Classified By: Economic Officer Jennifer Spande for reasons 1.4(b).

11. (SBU) Summary: While Cambodian law provides for environmental and social safeguards in the sale of land and in the establishment of Economic Land Concessions (ELCs), poor enforcement of these laws means that land sales and large concessions threaten both the environment and community livelihoods. NGOs argue that in contrast to the stated purpose of promoting economic development, ELCs are nothing more than legal loopholes to avoid the official moratorium on logging. Moreover, despite legal provisions designed to include community stakeholders in discussions and decisions on ELCs, information sharing is so poor that many communities are not even informed of the boundaries of new concessions established near them. Meanwhile, villages are also being pressured and/or coerced into selling their land. One doleful villager, comparing the societal destruction of forest and river disputes to life during the Khmer Rouge regime remarked, "Before we had fighting using weapons. Now we have fighting using the environment." End Summary.

12. (U) Regional Environment Officer (REO) and Econoff traveled to Stung Treng and Ratanakiri provinces in northeastern Cambodia to investigate forestry and water resource issues and their effects on local communities. This cable examines forestry and land issues in this area; reftel reports on the environmental and social challenges of hydropower dams located upstream in Vietnam and Laos and proposed for construction in Cambodia.

Laws Set Strict Environmental, Social Conditions for Land Use...

13. (U) According to provincial officials in Ratanakiri and Stung Treng, Cambodia's 2001 Land Law, 2002 Forestry Law, and government procedures contain many provisions designed to protect forests, community land, and the villagers that depend on these areas for their livelihoods. Land belonging to indigenous communities cannot be sold. A logging moratorium has been in place since 2002, although companies that intend to plant rubber, cashews, cassava, or other crops in designated economic land concessions (ELCs) are allowed to cut trees so that crops can be planted. Working groups of government officials ranging from village to provincial level collaborate on decisions about where to award ELCs and how large they should be, and final decisions are made by the Minister of Agriculture, Forests, and Fisheries in consultation with the Council for the Development of Cambodia. Land used by villages cannot be awarded as an

economic land concession, and additional land is to be reserved for the use of their future generations.

14. (U) Provincial government officials in the northeast told us that ELCs are subject to many regulations. Companies operating ELCs must file master plans with the provincial government showing what crops they intend to plant after they cut down the trees; failure to follow the master plan can result in the loss of the concession. In a nod to environmental concerns, only land classified as "thin forest" can be designated as an economic land concession. The officials stated that the Ministry of Environment is charged with conducting an Environmental Impact Assessment (EIA) before any concession is granted, and that these EIAs are public documents which anyone can obtain on request. In addition, the officials noted, local communities are to be consulted in any ELC projects that might impact them.

But Practice is a Far Cry from the Law, Communities Say

15. (C) In contrast to the environmental and social safeguards theoretically in place, NGOs and community members we visited in the two provinces painted a very different picture of the way concessions are awarded and managed in practice. NGO representatives said that "thick forests" and "thin forests" are poorly defined terms which could refer to canopy density or the type of trees present. Government officials admitted that areas are classified by an interministerial committee of non-expert officials based largely on satellite images with very limited on-the-ground verification. Several community members we spoke with accused officials of manipulating the definitions to allow desirable land to be classified as thin forests so that it

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could be given as a concession. (Comment: Even the assertion that thin forests are somehow less ecologically important than thick ones is dubious. Indeed, it might make more sense to preserve a diverse set of forests. End Comment.) And, the widespread belief among both NGO representatives and villagers is that few of the concessionaires are interested in actually following their master plans and planting crops. Instead, they say, these companies are interested only in logging the trees, have no intention of planting rubber or cashews, and do not care if they lose the concession after the forests are cleared. Thus, while the Chief of the Stung Treng Forest Administration, speaking from his hardwood-paneled office, told us that two companies in other provinces had recently lost their concessions because they failed to follow their master plans, this punishment was likely of little consequence--the companies had already cleared the land and made their profit selling the trees. In fact, there appears to be merit in NGO claims that the ELC system has evolved to allow logging companies to sidestep the official moratorium on timber-cutting.

16. (C) The NGO Culture and Environment Preservation Association (CEPA--strictly protect) gave us a map they said was given to them by a staffer's relative who works at the Forestry Administration's national headquarters. This map shows approximately 75% of Stung Treng province as being part of planned or existing ELCs or forest concessions and another 15% as being part of Virachey National Park, leaving only 15% for villages and village agriculture. The Governor of Stung Treng stated that the eleven concessions in his province totaled only 180,768 hectares, or 10% of the provincial land area, and that no additional concessions were planned. If the map from CEPA is genuine, then either the Governor was unaware of what was happening in his province or he was lying to us. In any case, no official list or map of concessions is published, so no one outside of an apparently close circle of official insiders know what the true figures are. (Comment: Post also contacted Forest Administration headquarters to request a map of concessions in Stung Treng,

not/not alluding to the map we obtained from CEPA, and we were told that no such maps exist. End Comment.)

¶7. (SBU) Villagers at two of the three communities we visited, as well as villagers from several other communities who attended an annual gathering of river communities in Ratanakiri province, complained that the borders of ELCs adjacent to their lands are unclear, with no official map showing where they begin and end. The village chief in one remote ethnic Phnong community told us that he believed that a recently awarded concession included his long-established village. But, without information about the concession's boundaries, he could not confirm this or appeal for a change.

In fact, far from being involved in the ELC decisionmaking process, the village chief only learned that a concession had been awarded when a group began cutting a road through the forest several months ago. Villagers also say that rather than setting aside currently used community land plus extra land for the use of future generations, concessions often include substantial portions of land currently used by the community, leading to greater food and income insecurity.

¶8. (SBU) Information sharing between affected communities and government decisionmakers is often problematic. Government officials were unclear about how communities were supposed to participate in the process. While the Director of the Stung Treng Environmental Department told Emboffs that EIAs are public documents, he also noted that no one has ever requested to see one. (Note: NGO leaders tell us that they have requested EIAs. Sometimes their requests are turned down, other times they are given preliminary studies or excerpts of EIAs from other concessions. None of the NGOs we spoke with had ever received a complete EIA. End Note.) The Chief of the Stung Treng Forest Administration downplayed the importance of public access to the EIAs, saying that the villagers were illiterate and would not be able to read them anyway.

Land and Forest Disputes Divide Communities

¶9. (SBU) Forest conflicts in northeastern Cambodia often cause division within and among local communities. A group of Ratanakiri NGO leaders reported that while some communities put tremendous effort into fighting to retain possession of their land and prevent logging on it, others log their land illegally and sell the logs to the wealthy, or

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willingly sell their land to outsiders. (Note: NGO leaders also highlighted that when there are crackdowns on illegal logging, villagers who cut down the logs are arrested, while their wealthy patrons go free. End Note.) Communities reluctant or unwilling to sell their land are often pressured into sales, often by their village leaders or neighbors who have already agreed to sell. NGOs reported cases where Cambodian officials have forced villagers to sign land sale contracts, villagers who tried to enforce their land rights via the courts were arrested, or contracts were altered after being signed.

¶10. (SBU) Gordon Patterson of the Highlanders Association reported that villages trying to retain their land face so much pressure to sell that they must invest enormous energy in maintaining solidarity; discussing how to approach the issue; and in traveling to the provincial capital to talk with government officials, NGOs, and others. For these impoverished communities, the cost of this effort is substantial: less time to spend on farming and less money for necessities. Patterson notes that communities who exert energy in fighting land issues face a reduction in food security the following year, and sometimes simply give in. Moreover, those who sell their land generally spend their money quickly and end up as landless urban dwellers searching, usually unsuccessfully, for factory or day labor jobs. NGO representatives also noted that while government

officials often promoted land sales as bringing economic development to the region, resort and plantation owners often discriminate against locals, particularly non-Khmers, in hiring, and prefer to bring in workers from other provinces.

Anger, Fear, and Violence

¶11. (SBU) The dozens of villagers we spoke with during our six-day trip to the northeast were generally polite, shy, and soft-spoken, often speaking with voices so low that the interpreters had to ask them to repeat what they said. When the conversation turned to ELCs and land sales, however, they became voluble. Their frustration--and in many cases, anger--was obvious. One ethnic Lao villager in Ratanakiri province, his voice quivering, poignantly compared the societal destruction of forest and river conflict today to Cambodia's Khmer Rouge history: "Before we had fighting using weapons. Now we have fighting using the environment."

¶12. (SBU) At our meeting with the Governor of Ratanakiri province, we shared our concern about the high level of frustration, resentment, and anger we were hearing. The REO drew parallels between Ratanakiri's land and forest issues and those of Vietnam's central highlands just across the border. In that region, violence erupted in 2001 following many years of indigenous communities' losing forest land to coffee plantations, and the repercussions are still being felt today. The Governor dismissed these concerns with a wave of his hand.

¶13. (SBU) Community members and NGO activists reported being afraid to protest land policies too vigorously. Tep Bunnarith, Executive Director of the Culture and Environment Preservation Association (CEPA), said he learned that the central government has asked the provincial Forest Administration to keep tabs on CEPA. The head of the Ratanakiri office of Adhoc, a local human rights NGO, reported that Adhoc staff and other NGO community members had received death threats. Sadly, just a few weeks after these conversations, Seng Sarorn, a CEPA staff member, was shot and killed by an unknown assailant while at his home in Stung Treng. Sarorn had been involved in protests against the Sal Sophea Peanich company, one of four companies accused in March 2007 of taking advantage of unclearly demarcated concessions to grab land used by indigenous communities. Sarorn had collected thumb prints from community members seeking to take legal action against Sal Sophea Peanich just two weeks before his death. The police have arrested two suspects, though NGO leaders doubt that these two individuals were truly involved.

Forests Critical to Rural Communities

¶14. (U) Rural communities in Cambodia's northeast rely heavily on forests for economic survival. Villagers from O'Run and O'Svay villages in Stung Treng told us that only 30 percent of their community members make enough from farming to rely on agriculture as their sole source of income; the

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other 70 percent have to supplement their incomes by harvesting non-timber forest products. These products include resin used for waterproofing boats and making torches; vines, stems, and leaves used for rattan or wicker building materials; and mushrooms, honey, and wildlife such as turtles and rabbits used for food. In addition to using these products themselves, villagers sell them in local markets, earning USD 300 to 400 per year, a considerable sum in rural Cambodia. The Cambodian Development Research Institute estimates that non-timber forest products account for 42% of total household income for low-income Cambodian families.

¶15. (U) Indigenous communities also attach spiritual

significance to their forests. Ethnic Phnong believe the souls of their ancestors live in "spirit forests." Villagers worship at designated locations in these spirit forests and consider them sacred. Ethnic Phnong in one community told us they feared that if nearby illegal logging came too close to their spirit forest, the desecration would cause disease in their community.

Comment

¶16. (SBU) Continuing forest conflicts in Cambodia threaten political and social stability and impede donor and Cambodian government efforts to reduce poverty. The combination of insecure access to land and hydropower-related changes in fish catch, flood patterns, and water quality (described reftel) have a tremendous effect on poor villagers, who often have no input into land- or water-use decisions and have little recourse after the decisions are made. As with so many other legal issues in Cambodia, the environmental and social protections enshrined in the law are fairly strong, but lack of enforcement leaves poor rural communities vulnerable to land grabs and logging by the wealthy and influential. Villagers feel they have absolutely no influence in land-use decisions and have no recourse after decisions are made. Most of the numerous villagers we met expressed frustration, fear, and great anger whenever the conversation turned to land, forests, and ELCs. Rather than planting cash crops, it appeared to us that the concessionaires were planting the seeds of civil and social unrest.

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